

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)

Reallocation of Television Channels
60-69, the 746-806 MHz Band

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) ET Docket No. 97-157

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To: The Commission

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FEDERAL COMMUNICATIONS COMMISSION

COMMENTS

Latin Communications Group Television, Inc., the licensee of low power television stations WVEN-LP, Channel 61, Tampa, Florida, and WVEA-LP, Channel 63, Orlando, Florida, and Los Cerezos Television Company, the licensee of low power television station WMDO-LP, Channel 48, Washington, D.C., hereby submits these comments in response to the Notice of Proposed Rule Making in the above-captioned proceeding, released July 10, 1997 (the "Notice"). (Latin Communications Group Television, Inc. and Los Cerezos Television Company are commonly owned and are hereafter referred to as "Latin.")

Latin's LPTV stations provide a Spanish-language television service in Washington, D.C., Tampa and Orlando, Florida. The Washington, D.C. and Tampa stations were among the first, if not the first and second, LPTV stations in the country and have provided service continuously since 1980. Latin is well aware of LPTV's secondary status. WMDO-LP began operation on Channel 56 in Washington, D.C., and was displaced by full-power WNVC, Channel 56, Fairfax, Virginia, in 1982. WMDO-LP then switched frequencies to Channel 14,

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until displaced by full-power WTMW, Arlington, Virginia, in 1991. Similarly, Latin's WVEN-LP in Tampa began operations on Channel 50, was displaced by full-power WBHS-TV, Tampa, and began operating on Channel 61 in 1988.

Latin does not dispute in this proceeding the secondary status of its LPTV licenses. Latin acknowledges that its low power operations may be required to give way to other "primary" licensees. As discussed above, Latin's stations have been previously displaced by full-power television stations.

Latin further understands that Congress has directed the reallocation of Channels 60-69 and that Latin will ultimately be compelled to relocate its two stations. Latin is nevertheless hopeful that it will be able to secure alternate channels below Channel 60 so as to continue its service uninterrupted, particularly in light of Congress's directive to the Commission to seek to assure that qualifying LPTV stations operating on Channels 60-69 are assigned frequencies below Channel 60. Congress's directive is consistent with the Commission's own request for comments on ways to mitigate the impact of the reallocation of Channels 60-69 on LPTV stations. See Notice at ¶ 19.

Latin believes, however, that it will be difficult, if not impossible, for displaced LPTV stations to secure alternative channels below Channel 60 until the DTV transition period ends, at which time full-power television stations will be required to relinquish one of their two channels, thereby freeing up frequencies for use by displaced LPTV stations. Latin therefore suggests that the new rules for Channels 60-69 take into account the need to defer implementation until the end of the DTV transition period. One alternative would be for the

Commission to delay the auction for the 36 megahertz allocated for fixed, mobile, and broadcasting services until *after* the end of the DTV transition period. Another alternative would be to proceed with the auction but require the winning bidder to protect incumbent LPTV stations until the transition period ends.

Latin also suggests a slight revision to the FCC's existing rules governing "displaced" LPTV stations. Under the Commission's existing rules, a displaced LPTV station may not use the displacement rules to apply for any channel for which there is a pending mutually exclusive application, regardless of whether the pending application is for a new station or for modification of existing station not displaced by DTV or for any other reason. *See Low Power Television and Television Translator Service*, 2 FCC Rcd 1278, 1279 (1987). The Commission should modify this rule and give displaced LPTV preference over pending mutually exclusive applications not involving displaced stations.

The Commission has recognized the value of uninterrupted LPTV broadcast service to the public. *Id.* at 1278 (noting that the rules adopted "will contribute greatly to the orderly development and stability of the low power television service"). The Commission has expressed its desire to minimize the impact on LPTV of the transition to DTV and relocate as many existing LPTV stations as possible. *Notice* at ¶¶ 18-19. It therefore seems contrary to such ideals to give new applicants a preference over established LPTV stations displaced by DTV. If the Commission is truly committed to the stability of the LPTV industry and minimizing the disruption of established stations, it should relax its prohibition against the submission of displacement applications proposing operation on channels for which other applications are

pending and give displaced, long-standing stations a preference over applicants for new stations or for modifications to existing facilities.

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For many years, low power television stations have provided valuable informative, educational and entertainment programming to viewers all over the country. The Commission's current plans for the transition to DTV and reallocation of channels 60-69 do not adequately provide for qualifying LPTV stations broadcasting on these channels with alternatives to mitigate the loss of these channels for LPTV service. Adoption by the Commission of the alternatives proposed by Latin would enable such stations to remain on the air and continue their valued service to their communities.

Respectfully submitted,

**LATIN COMMUNICATIONS GROUP
TELEVISION, INC.
LOS CEREZOS TELEVISION COMPANY**

By: 

Meredith S. Senter, Jr.
Ross G. Greenberg

Leventhal, Senter & Lerman P.L.L.C.
2000 K Street, NW
Suite 600
Washington, D.C. 20006

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Its Attorneys